

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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BURBERRY LIMITED	:	
a United Kingdom Corporation	:	
	:	
BURBERRY LIMITED,	:	
a New York Corporation	:	
	:	
Plaintiffs,	:	Civil Action No. 08 CV 5781
	:	JUGE MCMAHON
v.	:	
	:	DEFENDANTS EURO MODA, INC.,
EURO MODA, INC., MODA OGGI, INC.	:	AND MODA OGGI, INC.'S ANSWER
and JOHN FANNING	:	TO COMPLAINT
	:	
Defendants,	:	
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ANSWER TO COMPLAINT

Defendants, Euro Moda, Inc. and Moda Oggi, Inc., (collectively “Euro Moda” or “Defendants”), answers the complaint on file as follows:

1. Defendants admit the jurisdictional allegations in paragraph 1 of Plaintiff’s complaint, and deny the allegations that they import, distribute, promote and/or sell counterfeit wearing apparel. Defendants deny the whole of the last sentence of said paragraph 1.
2. Defendants admit the allegations set forth in paragraph 2 of Plaintiff’s complaint.
3. Defendants deny all of the allegations set forth in paragraph 3 of Plaintiff complaint.
4. Defendants admit the allegations set forth in paragraph 4 of Plaintiff’s complaint.

5. Defendants deny all of the allegations set forth in paragraph 5 of Plaintiff complaint.

6. Defendants deny all of the allegations set forth in paragraph 6 of Plaintiff complaint.

7. Defendants deny that they have misappropriated the Burberry Trademarks or harmed Burberry's reputation and goodwill and otherwise deny the whole of paragraph 7 of Plaintiff's complaint.

8. Defendants admit the allegations set forth in paragraph 8 of Plaintiff's complaint.

9. Defendants admit the allegations set forth in paragraph 9 of Plaintiff's complaint.

10. Defendants admit the court has personal jurisdiction over them, but deny that they have sold infringing product.

11. Defendants admit the allegations set forth in paragraph 11 of Plaintiff's complaint.

12. Defendants admit the allegations set forth in paragraph 12 of Plaintiff's complaint.

13. Defendants do not dispute the allegations set forth at paragraph 13 of Plaintiff's complaint herein.

14. Defendants do not dispute the allegations set forth at paragraph 14 of Plaintiff's complaint herein.

15. Defendants do not dispute the allegations set forth at paragraph 15 of Plaintiff's complaint herein.

16. Defendants do not dispute the allegations set forth at paragraph 16 of Plaintiff's complaint herein.

17. Defendants do not dispute the allegations set forth at paragraph 17 of Plaintiff's complaint herein.

18. Defendants do not dispute the allegations set forth at paragraph 18 of Plaintiff's complaint herein.

19. Defendants do not dispute the allegations set forth at paragraph 19 of Plaintiff's complaint herein.

20. Defendants do not dispute the allegations set forth at paragraph 20 of Plaintiff's complaint herein.

21. Defendants do not dispute the allegations set forth at paragraph 21 of Plaintiff's complaint herein.

22. Defendants do not dispute the allegations set forth at paragraph 22 of Plaintiff's complaint herein.

23. Defendants do not dispute the allegations set forth at paragraph 23 of Plaintiff's complaint herein.

24. Defendants do not dispute the allegations set forth at paragraph 24 of Plaintiff's complaint herein.

25. Defendants lack sufficient information and belief to enable them to answer paragraph 25 of Plaintiff's complaint on file herein, and on that basis, deny the allegations set forth herein.

26. Defendants lack sufficient information and belief to enable them to answer paragraph 26 of Plaintiff's complaint on file herein, and on that basis, deny the allegations set forth herein.

27. Defendants admit the allegations set forth in paragraph 27 of Plaintiff's complaint.

28. Defendants lack sufficient information and belief to enable them to answer paragraph 28 of Plaintiff's complaint on file herein, and on that basis, deny the allegations set forth herein.

29. Defendants admit the allegations set forth in paragraph 29 of Plaintiff's complaint.

30. Defendants deny all of the allegations set forth in paragraph 30 of Plaintiff's complaint.

31. Defendants deny all of the allegations set forth in paragraph 31 of Plaintiff's complaint.

32. Defendants deny all of the allegations set forth in paragraph 32 of Plaintiff's complaint.

33. Defendants admit that there was a dispute between Plaintiffs and Defendants, but otherwise deny selling counterfeit merchandise.

34. Defendants admit the allegations set forth in paragraph 34 of Plaintiff's complaint.

35. Defendants admit the allegations set forth in paragraph 35 of Plaintiff's

complaint.

36. Defendants admit the allegations set forth in paragraph 36 of Plaintiff's complaint.

37. Defendants admit the allegations set forth in paragraph 37 of Plaintiff's complaint.

38. Defendants admit the allegations set forth in paragraph 38 of Plaintiff's complaint.

39. Defendants admit the allegations set forth in paragraph 39 of Plaintiff's complaint.

40. Defendants admit the allegations set forth in paragraph 40 of Plaintiff's complaint.

41. Defendants deny all of the allegations set forth in paragraph 41 of Plaintiff's complaint.

42. Defendants deny all of the allegations set forth in paragraph 42 of Plaintiff's complaint.

43. Defendants deny all of the allegations set forth in paragraph 43 of Plaintiff's complaint.

44. Defendants deny all of the allegations set forth in paragraph 44 of Plaintiff's complaint.

45. Defendants repeat and reallege their responses to Paragraphs 1 through 44 hereat as though fully set forth.

46. Defendants deny all of the allegations set forth in paragraph 46 of Plaintiff's complaint.

47. Defendants admit that they are not authorized Burberry agents, but deny they have dealt in counterfeit goods and so deny the allegations set forth in paragraph 47 of Plaintiff complaint.

48. Defendants deny they dealt in counterfeit goods, and so deny the allegations set forth in paragraph 48 of Plaintiff's complaint.

49. Defendants deny all of the allegations set forth in paragraph 49 of Plaintiff's complaint.

50. Defendants deny all of the allegations set forth in paragraph 50 of Plaintiff's complaint.

51. Defendants deny all of the allegations set forth in paragraph 51 of Plaintiff's complaint.

52. Defendants repeat and reallege their responses to Paragraphs 1 through 44 hereat as though fully set forth.

53. Defendants admit the allegations set forth in paragraph 53 of Plaintiff's complaint.

54. Defendants admit the allegations set forth in paragraph 54 of Plaintiff's complaint.

55. Defendants deny all of the allegations set forth in paragraph 55 of Plaintiff's complaint.

56. Defendants deny all of the allegations set forth in paragraph 56 of Plaintiff's complaint.

57. Defendants deny all of the allegations set forth in paragraph 57 of Plaintiff's complaint.

58. Defendants deny all of the allegations set forth in paragraph 58 of Plaintiff's complaint.

59. Defendants deny all of the allegations set forth in paragraph 59 of Plaintiff's complaint.

60. Defendants repeat and reallege their responses to Paragraphs 1 through 44 hereat as though fully set forth.

61. Defendants admit the allegations set forth in paragraph 61 of Plaintiff's complaint.

62. Defendants deny all of the allegations set forth in paragraph 62 of Plaintiff's complaint.

63. Defendants deny all of the allegations set forth in paragraph 63 of Plaintiff's complaint.

64. Defendants deny all of the allegations set forth in paragraph 64 of Plaintiff's complaint.

65. Defendants deny all of the allegations set forth in paragraph 65 of Plaintiff's complaint.

66. Defendants repeat and reallege their responses to Paragraphs 1 through 44

hereat as though fully set forth.

67. Defendants admit the allegations set forth in paragraph 67 of Plaintiff's complaint.

68. Defendants deny all of the allegations set forth in paragraph 68 of Plaintiff's complaint.

69. Defendants admit the allegations set forth in paragraph 69 of Plaintiff's complaint.

70. Defendants deny they sell counterfeit goods, and thereby deny the allegations set forth at paragraph 70.

71. Defendants deny all of the allegations set forth in paragraph 71 of Plaintiff's complaint.

72. Defendants deny all of the allegations set forth in paragraph 72 of Plaintiff's complaint.

73. Defendants deny all of the allegations set forth in paragraph 73 of Plaintiff's complaint.

74. Defendants deny all of the allegations set forth in paragraph 74 of Plaintiff's complaint.

75. Defendants repeat and reallege their responses to Paragraphs 1 through 44 hereat as though fully set forth.

76. Defendants deny all of the allegations set forth in paragraph 76 of Plaintiff's complaint.

77. Defendants deny all of the allegations set forth in paragraph 77 of Plaintiff's complaint.

78. Defendants deny all of the allegations set forth in paragraph 78 of Plaintiff's complaint.

79. Defendants deny all of the allegations set forth in paragraph 79 of Plaintiff's complaint.

80. Defendants repeat and reallege their responses to Paragraph 1 through 44 hereat as though fully set forth.

81. Defendants admit all of the allegations set forth in paragraph 81 of Plaintiff's complaint.

82. Defendants admit all of the allegations set forth in paragraph 82 of Plaintiff's complaint.

83. Defendants admit all of the allegations set forth in paragraph 83 of Plaintiff's complaint.

84. Defendants deny all of the allegations set forth in paragraph 84 of Plaintiff's complaint.

85. Defendants deny all of the allegations set forth in paragraph 85 of Plaintiff's complaint.

86. Defendants deny all of the allegations set forth in paragraph 86 of Plaintiff's complaint.

87. Defendants deny all of the allegations set forth in paragraph 87 of Plaintiff's

complaint.

88. Defendants repeat and reallege their responses to Paragraphs 1 through 44 hereat as though fully set forth.

89. Defendants admit the allegations set forth in paragraph 89 of Plaintiff's complaint.

90. Defendants deny all of the allegations set forth in paragraph 90 of Plaintiff's complaint.

91. Defendants deny all of the allegations set forth in paragraph 91 of Plaintiff's complaint.

92. Defendants deny all of the allegations set forth in paragraph 92 of Plaintiff's complaint.

93. Defendants deny all of the allegations set forth in paragraph 93 of Plaintiff's complaint.

94. Defendants deny all of the allegations set forth in paragraph 94 of Plaintiff's complaint.

95. Defendants repeat and reallege their responses to Paragraphs 1 through 44 hereat as though fully set forth.

96. Defendants deny all of the allegations set forth in paragraph 96 of Plaintiff's complaint.

97. Defendants deny all of the allegations set forth in paragraph 97 of Plaintiff's complaint.

98. Defendants deny all of the allegations set forth in paragraph 98 of Plaintiff's complaint.

99. Defendants deny all of the allegations set forth in paragraph 99 of Plaintiff's complaint.

100. Defendants repeat and reallege their responses to Paragraphs 1 through 44 hereat as though fully set forth.

101. Defendants admit the allegations set forth in paragraph 101 of Plaintiff's complaint.

102. Defendants admit the allegations set forth in paragraph 102 of Plaintiff's complaint.

103. Defendants deny all of the allegations set forth in paragraph 103 of Plaintiff's complaint.

104. Defendants deny all of the allegations set forth in paragraph 104 of Plaintiff's complaint.

105. Defendants admit the allegations set forth in paragraph 105 of Plaintiff's complaint.

106. Defendants deny all of the allegations set forth in paragraph 106 of Plaintiff's complaint.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

107. The Plaintiffs, Burberry Limited, are estopped by its conduct to assert any Trademark violations or the like, as to any goods or products supplied by these answering Defendants.

SECOND AFFIRMATIVE DEFENSE

108. These answering Defendants procured any Burberry branded products in a lawful and authorized manner.

THIRD AFFIRMATIVE DEFENSE

109. The complainant, Burberry Limited, has misused the purported trademarks in an effort to restrain these Defendants' rights to lawfully engage in commerce.

FOURTH AFFIRMATIVE DEFENSE

110. Defendants assert that Plaintiff Burberry is attempting to improperly restrain trade in legitimate, grey market products by litigating against independent wholesalers of those legal goods.

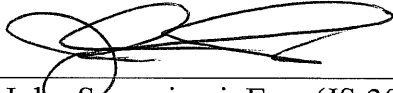
WHEREFORE, Defendants pray that Plaintiffs take nothing by their complaint herein, and:

1. For costs of suit herein;
2. For such other and further relief as the court deems proper.

Dated: New York, New York
July 17, 2008

JOSEPH & SMARGIASSI, LLC

By: _____


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